IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE EIGHTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

W.P.NOs. 24994 AND 25016 OF 1998

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WRIT PETITION NO : 24994 of 1998

Between:

1 M/s. Techno Auto Builders, Auto Nagar, Vijayawada, rep. by its Managing Partner Sri. P.Ravi Kumar.
2 APSRTC rep. by its Vice-Chairman and Managing Director, Musheerabad, Hyderabad.

..... PETITIONER(S)

AND

1 Superintendent of Central Excise, Range-II, Vijayawada.
2 Chief Commissioner of Central Excise, Hyderabad.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, one in the nature of a writ of mandamus or any other appropriate direction or order declaring the notice O.C.No.161/98, dated 10-6-1998 and O.C.No.233/98, dated 22.7.1998 issued by the Superintendent of Central Excise, Range-II, Vijayawada, the first respondent herein as illegal and void and pass

Counsel for the Petitioner: MR.E. Manohar

Counsel for the Respondents: MR.M.RATNA REDDY (ADDL.S.C

FOR C.G)

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WRIT PETITION NO : 25016 of 1998

Between:

The Andhra Pradesh State Road Transport Corporation
Vice Chairman & Managing Director Musheerabad,
Hyderabad

..... PETITIONER

AND

1 Superintendent of Central Excise
Kukatpally Range, Hyderabad
2 Chief Commissioner of Central Excise
Hyderabad

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, one in the nature of a Writ of Mandamus or any other appropriate direction or order declaring the notice dt: 10.7.1998 issued by the Superintendent of Central Excise, Kukatpally range, Hyderabad the 1st respondent herein as illegal and void

Counsel for the Petitioner: MR. E. Manohar

Counsel for the Respondent No.: MR.M.RATNA REDDY (ADDL.S.C FOR C.G)

The Court made the following :

HON'BLE MR. JUSTICE BILAL NAZKI

AND

HON'BLE MR. JUSTICE S. ANANDA REDDY

W.P.NOs. 24994 AND 25016 OF 1998

COMMON ORDER: (Per Hon'ble Mr. Justice Bilal Nazki)

Heard learned counsel for the parties. The subject matter of writ petition being W.P.No. 24994 of 1998 is a letter dt. 22.7.1998. The last portion of the letter reads as under,

> "Hence you are hereby requested not to enter into any further correspondence with this office regarding disability of bodies built by you and follow the Hon'ble Supreme Court discussion in M/s. Ram Body Builders and pay appropriate duty and clear the goods without further loss of time failing which action will be initiated as deems fit which includes detention, seizure of goods and prosecution for willful evasion of duty under Central Excise Act and Rules, 1944."

After hearing the learned counsel for the parties and going through the relevant provisions of law and also the judgment of the Supreme Court reported in *Collector of Central Excise Vs. Ram Body*

Builders , we have no doubt that the building of body of a chasis is a manufacturing activity and as such is exigible to duty under the Excise Act. This is not even disputed by Mr. E. Manohar, learned senior counsel appearing for the petitioners. The only dispute is whether on such manufacture there was any exemption at the relevant point of time or not. Since there is no assessment before us nor any order is passed, therefore it will be difficult for this Court to see for which year there was an exemption and for which year there was no exemption, which can be done only by the respondents.

In these circumstances, we dispose of these writ petitions granting an opportunity to the petitioners to show-cause to the respondents as to which years they could avail of any exemption under the relevant laws and they shall be given exemption for the years the exemption was available and they shall also be assessed for duty if exemption was not available in accordance with law. The process shall be completed within a period of three months from the date of receipt of a copy of this order. With these observations the writ petitions are disposed of. No costs.

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BN J.

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SAR J.

Dt.8.11.2004

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Sd/-

ASST. REGISTRAR

To

1 Superintendent of Central Excise, Range-II, Vijayawada.
2 Chief Commissioner of Central Excise, Hyderabad.

3. Superintendent of Central Excise
Kukatpally Range, Hyderabad
3. **2 CCs to Mr. M. Ratna Reddy, Addl. Standing Counsel for Central Government, High Court buildings, Hyderabad(out)**

4.2 CD copies

HON'BLE MR. JUSTICE BILAL NAZKI

AND

HON'BLE MR. JUSTICE S. ANANDA REDDY

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W.P.NOs. 24994 AND 25016 OF 1998

COMMON ORDER: (Per Hon'ble Mr. Justice Bilal Nazki)

Dt. 8.11.2004